



#6/IDS

Practitioner's Docket No. 1827-U-1-CIP**PATENT****IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**In re application of: Perriann HoldenApplication No: 09 / 910,641Group No.: 3765Filed: July 20, 2001Examiner: Hoey, AlissaFor: PROTECTIVE ATTACHMENTAssistant Commissioner for Patents  
Washington, D.C. 20231**TRANSMITTAL OF INFORMATION DISCLOSURE STATEMENT (SUPPLEMENTAL)  
BEFORE MAILING DATE OF EITHER A FINAL ACTION  
OR NOTICE OF ALLOWANCE (37 C.F.R. § 1.97(c))**

NOTE: 37 C.F.R. 1.97: "(c) An information disclosure statement shall be considered by the Office if filed after the period specified in paragraph (b) of this section, provided that the information disclosure statement is filed before the mailing date of any of a final action under § 1.113, a notice of allowance under § 1.311, or an action that otherwise closes prosecution in the application, and it is accompanied by one of:

- (1) The statement specified in paragraph (e) of this section; or
- (2) The fee set forth in § 1.17(p)."

NOTE: "If a final action or notice of allowance is mailed in an application and later withdrawn, the application will be considered as not having had a final action or notice of allowance mailed for purposes of considering an information disclosure statement." Notice of April 20, 1992 (1138 O.G. 37-41, 39).

**CERTIFICATION UNDER 37 C.F.R. §§ 1.8(a) and 1.10\***

(When using Express Mail, the Express Mail label number is mandatory;  
Express Mail certification is optional.)

I hereby certify that, on the date shown below, this correspondence is being:

**MAILING**

☐ deposited with the United States Postal Service in an envelope addressed to the Assistant Commissioner for Patents, Washington, D.C. 20231

37 C.F.R. § 1.8(a)

37 C.F.R. § 1.10\*

☒ with sufficient postage as first class mail.☐ as "Express Mail Post Office to Addressee"

Mailing Label No. \_\_\_\_\_ (mandatory)

**TRANSMISSION**☐ facsimile transmitted to the Patent and Trademark Office, (703) \_\_\_\_\_

Signature

Karyn L. Osterman

(type or print name of person certifying)

Date: May 16, 2002

\* Only the date of filing (§ 1.6) will be the date used in a patent term adjustment calculation, although the date on any certificate of mailing or transmission under § 1.8 continues to be taken into account in determining timeliness. See § 1.703(f). Consider "Express Mail Post Office to Addressee" (§ 1.10) or facsimile transmission (§ 1.6(d)) for the reply to be accorded the earliest possible filing date for patent term adjustment calculations.

(Transmittal of Information Disclosure Statement before Mailing Date of Either a Final Action Or Notice of Allowance [6-4]—page 1 of 3)

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**NOTE:** "If information submitted during the period set forth in 37 C.F.R. 1.97(c) with a certification is used in a new ground of rejection on unamended claims, the next Office action will not be made final since in this situation it is clear that applicant has submitted the information to the office promptly after it has become known and the information is being submitted prior to a final determination on patentability by the Office. However, the information submitted with a certification can be used in a new ground of rejection and the next Office action made final, if the new ground of rejection was necessitated by amendment of the application by applicant. Where the information is submitted during this period with a fee, the examiner may use the information submitted, e.g., printed publication or evidence of public use, and make the next Office action final whether or not the claims have been amended, provided that no other new ground of rejection which was not necessitated by amendment to the claims is introduced by the examiner. See MPEP 706.07(a). If a new ground of rejection is introduced that is neither necessitated by an amendment to the claims nor based on the information submitted with the fee set forth in 37 C.F.R. § 1.17(p), the Office action shall not be made final." Notice of April 20, 1992 (1138 O.G. 37-41, 39).

**WARNING:** "A petition for suspension of action to allow applicant time to submit an information disclosure statement will be denied as failing to present good and sufficient reasons, since 37 C.F.R. § 1.97 provides adequate recourse for the timely submission of prior art for consideration by the examiner." Notice of July 6, 1992 (1141 O.G. 63). But see § 103(b) and (c), limited suspension of action in a continued prosecution application (CPA) filed under § 1.53(d) and in a request for continued examination (RCE) under § 1.114.

**WARNING:** No extension of time can be had under 37 C.F.R. 1.136 (a) or (b) for filing an IDS. 37 C.F.R. 1.97(f).

### **TIME OF TRANSMITTAL OF ACCOMPANYING INFORMATION DISCLOSURE STATEMENT**

1. The information disclosure statement transmitted herewith is being filed **after** three months of the filing date of this national application or the date of entry of the national stage as set forth in § 1.491 in an international application or after the mailing date of the first Office action on the merits, whichever event occurred last but **before** the mailing date of either:
  - (1) a final action under § 1.113 or
  - (2) a notice of allowance under § 1.311,whichever occurs first.

### **STATEMENT OR FEE**

2. Accompanying this transmittal is

(check either A or B below)

- A. ☐ a statement as specified in 37 C.F.R. § 1.97(e).

**OR**

- B. ☒ the fee set forth in 37 C.F.R. § 1.17(p) for submission of an information disclosure statement under § 1.97(c). (\$240.00).

### **FEE PAYMENT**

(complete this item, if applicable)

3. Applicant elects the option to pay the fee set forth in 37 C.F.R. § 1.17(p) for submission of an information disclosure statement under § 1.97(c) (\$240.00).

Fee due \$ \_\_\_\_\_

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**METHOD OF PAYMENT OF FEE**

4.

- ☒ Attached is a ☒ check ☐ money order in the amount of \$ 235
- ☐ Authorization is hereby made to charge the amount of \$ additional
- ☒ to Deposit Account No. 03-1133
- ☐ to Credit card as shown on the attached credit card information authorization form PTO-2038.

**WARNING:** Credit card information should *not* be included on this form as it may become public.

- ☒ Charge any additional fees required by this paper or credit any overpayment in the manner authorized above.

A duplicate of this paper is attached.

Reg. No. 25,838

Tel. No.: (602) 248-0982

Customer No.: 002834

Charles E. Cates

SIGNATURE OF PRACTITIONER

Charles E. Cates

(type or print name of practitioner)

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